IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 25TH JULY 2007 / 3RD SRAVANA 1929

Crl.MC.No. 2393 of 2007()

CRMP.2447/2007 of SESSIONS COURT, PALAKKAD
CRIME NO.152/2007 OF NATTUKAL POLICE STATION

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PETITIONER: ACCUSED:

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1. MOHAMMED, S/O. HAMSA,

2. KADEEJA, D/O. HAMSA,

3. PATHUMMA, D/O. HAMSA,

4. BIYUMMA, D/O. HAMSA,

5. ASIYA, D/O. HAMSA,
   ALL ARE RESIDING AT TITTUMMAL VEEDU,
   CHOLADE, PALODE, MANNARKKAD TALUK, PALAKKAD.

BY ADV. SRI.VINOD KUMAR.C

RESPONDENTS: RESPONDENT:

STATE, REPRESENTED BY S.I. OF POLICE,
NATTUKAL THROUGH PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 25/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.2393 of 2007

Dated this the 25th day of July, 2007

O R D E R

The petitioners face allegations in a crime registered, inter alia, under Section 3(1)(v), 3(1)(x) & 3(1)(xv) of the Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act. They filed an application for anticipatory bail before the learned Sessions Judge. The learned Sessions Judge in view of the bar under Section 18 of the Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act, dismissed the application for anticipatory bail. The petitioners have hence come before this Court. The short prayer made by the petitioners is that the learned Magistrate may be directed to consider the bail application of the petitioners on merits, in accordance with law and expeditiously.

2. It is by now trite and the decisions in **Ali v. State of Kerala** [2000(2) KLT 280], **Shanu v. State of Kerala** [200(3) KLT 452], **Krishnakumar v. State of Kerala** [2005(1) KLD (Cri.42)] and **P.P.Kader v. State of Kerala** [2005(1) KLD (Cri.250)] make the position crystal clear that notwithstanding the fact that the offence under Section 3 of the Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act is triable by a Court of Session, a Magistrate, before whom an accused surrenders, cannot abdicate his

powers under Section 437 Cr.P.C. I have no reason to assume that the learned Magistrate would not consider the application for regular bail to be filed by the petitioners on their surrender, on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

3. This Crl.M.C is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

4. Hand over a copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

rtr/-